

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

VARIETY STORES, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 5:14-cv-00217
)	
WAL-MART STORES, INC.,)	
)	
Defendant.)	
)	

VARIETY’S OPPOSITION TO WALMART’S “RENEWED” MOTIONS *IN LIMINE*

Variety Stores Inc. (“Variety”) respectfully renews each of its Oppositions to Walmart Stores Inc.’s (“Walmart”) Renewed Motions *in Limine* as follows:

**OPPOSITION TO MOTION *IN LIMINE* CONCERNING APPORTIONMENT
AND DISGORGEMENT OF PROFITS**

On, February 4, 2019, Walmart filed [DE 526] which is styled a “Renewed Motion *in Limine* Concerning Apportionment and Disgorgement of Profits” which purports to renew a similarly named motion [DE 403] filed by Walmart on September 28, 2018. Variety opposed [DE 403] by filing is Opposition, [DE 444] on October 12, 2018. This Court denied Walmart’s Motion [DE 403] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 444].

**OPPOSITION TO RENEWED MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND
ARGUMENTS CONCERNING OTHER COMPLAINTS, INCIDENTS, CLAIMS, OR
LAWSUITS**

On, February 4, 2019, Walmart filed [DE 527] which is styled a “Renewed Motion *in Limine* to Exclude Evidence and Arguments Concerning Other Complaints, Incidents, Claims, or Lawsuits” which purports to renew a similarly named motion [DE 404] filed by Walmart on September 28, 2018. Variety opposed [DE 404] by filing is Opposition, [DE 458] on October 12, 2018. This Court denied Walmart’s Motion [DE 404] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 458].

OPPOSITION TO RENEWED MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND ARGUMENTS CONCERNING WALMART INC.'S OVERALL REVENUE AND SIZE

On, February 4, 2019, Walmart filed [DE 529] which is styled a “Renewed Motion *in Limine* to Exclude Evidence and Arguments Concerning Walmart Inc.’s Overall Revenue and Size” which purports to renew a similarly named motion [DE 405] filed by Walmart on September 28, 2018. Variety opposed [DE 405] by filing is Opposition, [DE 460] on October 12, 2018. This Court denied Walmart’s Motion [DE 405] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 460].

OPPOSITION TO RENEWED MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND ARGUMENTS CONCERNING ISSUES INVOLVING THE ATTORNEY-CLIENT PRIVILEGE

On, February 4, 2019, Walmart filed [DE 530] which is styled a “Renewed Motion *in Limine* to Exclude Evidence and Arguments Concerning Issues Involving the Attorney-Client Privilege” which purports to renew a similarly named motion [DE 406] filed by Walmart on September 28, 2018. Variety opposed [DE 406] by filing is Opposition, [DE 447] on October 12, 2018. This Court denied Walmart’s Motion [DE 406] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 447].

OPPOSITION TO RENEWED MOTION *IN LIMINE* TO EXCLUDE ANY EVIDENCE CONCERNING MONETARY REMEDIES OTHER THAN A REASONABLE ROYALTY OR DISGORGEMENT OF PROFITS BASED ON UNJUST ENRICHMENT

On, February 4, 2019, Walmart filed [DE 533] which is styled a “Renewed Motion *in Limine* to Exclude any Evidence Concerning Monetary Remedies Other Than a Reasonable Royalty or Disgorgement of Profits Based on Unjust Enrichment” which purports to renew a similarly named motion [DE 407] filed by Walmart on September 28, 2018. Variety opposed [DE 407] by filing is Opposition, [DE 459] on October 12, 2018. This Court denied Walmart’s Motion [DE 407] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 459].

**OPPOSITION TO RENEWED MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND
ARGUMENTS OF REVENUE OUTSIDE OF THE RELEVANT GEOGRAPHIC AREA**

On, February 4, 2019, Walmart filed [DE 539] which is styled a “Renewed Motion *in Limine* to Exclude Evidence and Arguments of Revenue Outside the Relevant Geographic Area” which purports to renew a similarly named motion [DE 413] filed by Walmart on September 28, 2018. Variety opposed [DE 413] by filing its Opposition, [DE 452] on October 12, 2018. This Court denied Walmart’s Motion [DE 413] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 452].

**OPPOSITION TO RENEWED MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND
ARGUMENTS CONCERNING UNRELATED LICENSE AGREEMENTS**

On, February 4, 2019, Walmart filed [DE 548] which is styled a “Renewed Motion *in Limine* to Exclude Evidence and Arguments Concerning Unrelated License Agreements” which purports to renew a similarly named motion [DE 422] filed by Walmart on September 28, 2018. Variety opposed [DE 422] by filing its Opposition, [DE 455] on October 12, 2018. This Court denied Walmart’s Motion [DE 422] on October 24, 2018. Via the present filing, Variety respectfully renews its Opposition, [DE 455].

CONCLUSION

For all of the above reasons and for all of the reasons stated in the Oppositions herein incorporated by reference, Walmart’s Renewed Motions, [DE 526], [DE 527], [DE 529], [DE 533], [DE 539], and [DE 548] should be **denied**.

This the 8th day of February, 2019.

Respectfully submitted,

/s/ W. Thad Adams, III

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LR 83.1 Counsel

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This the 8th day of February, 2019.

Respectfully submitted,

/s/ W. Thad Adams, III

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